

Court of Appeals, Division One

Civil Appeal

1 CA-CV 23-0699

BOROWSKY v. BROOKS, et al.

Appellate Case Information

Case Filed: 8-Nov-2023

Case Closed:

Dept/Composition

Side 1. TODD BOROWSKY, Plaintiff/Appellant

(Litigant Group) TODD BOROWSKY

- Todd Borowsky

Attorneys for: Plaintiff/Appellant

Dennis I Wilenchik, Esq. (AZ Bar No. 5350)

Karl M Worthington, Esq. (AZ Bar No. 18703)

Carol M Romano, Esq. (AZ Bar No. 15988)

Side 2. MARK BROOKS, et al., Defendant/Appellee

(Litigant Group) MARK BROOKS, et al.

- Mark Brooks

Atty - Defendant/Appellee (Brooks Counterclaim)

Edwin B Stanley, Esq. (AZ Bar No. 11730)

(Litigant Group) MACKENZIE PATE

- Mackenzie Pate

Attorneys for: Defendant/Appellee Pate

William M Fischbach, III, Esq. (AZ Bar No. 19769)

Stephen C Biggs, Esq. (AZ Bar No. 26684)

Mitchell S Antalis, Esq. (AZ Bar No. 37922)

(Litigant Group) ROBERT K. JOHNSON

- Robert K Johnson

Attorneys for: Defendant/Appellee Johnson

Keith L Hendricks, Esq. (AZ Bar No. 12750)

Lawrence Palles, Esq. (AZ Bar No. 20263)

CASE STATUS

Jul 26, 2024.....At Issue

Table with 6 columns: PREDECESSOR CASE(S), Cause/Charge/Class, Judgment/Sentence, Judge, Role <Comments>, Trial, Dispo. Row 1: MAR, CV2018-015307, Breach of Contract, Dewain D Fox, Authoring Judge of Order.

64 PROCEEDING ENTRIES

- 1. 8-Nov-2023 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 10/10/23
2. 8-Nov-2023 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits: None sent with e-Record
3. 8-Nov-2023 FILED: Appellate Clerk Notice re: Appellant's Fee/Case Management Statement/Brief Due
4. 9-Nov-2023 FILED: Additional Record on Appeal: Physical Exhibits: Hearing Date 10/24/2022 - List # 1 2 5 6 7 8 11 12 13 21 22 23 24 25 27 32 38 40 40.001 43 49 50 61 62 64 65 66 67 81 82 83 84 147 149 150 165 166 168 169 176 185 189 194 199 205 207 208 209 212 217 219 226 227 230 231 233 234 237 240 245 247 252 263 267 270 275 276 277 278 285 286 288 290 292 294 295 298 299 301 302 303 310 312 314 317 318 in a Box; Hearing Date 01/20/2022 - List # 1 2 4 5 6 7 8 9 10 11 12 13 15 16 17 18 19 20 21 22 23 24 25 26 27 29 33 in a Manila Envelope Hearing Date 10/24/2022 - List # 1 2 5 6 7 8 11 12 13 21 22 23 24 25 27 32 38 40 40.001 43 49 50 61 62 64 65 66 67 81 82 83 84 147 149 150 165 166 168 169 176 185 189 194 199 2205 207 208 209 212 217 219 226 227 230 231 233 234 237 240 245 247 252 263 267 270 275 276 277 278 285 286 288 290 292 295 298 299 301 302 303 310 312 314 317 318 in a Box
5. 9-Nov-2023 FILED: Notice of Payment of Filing Fee; Certificate of Service of Notice of Payment of Filing Fee (Appellant)
6. 16-Nov-2023 RECEIPT No.: 2023-01074 ; \$280.00, Authorization: #20010998153, Applied to: TODD BOROWSKY - Class A Filing Fee (\$280.00) Paid for: Wilenchik & Bartness PC - By nCourt LLC
7. 17-Nov-2023 FILED: Reporter's Transcript - 10/24/2022 - Trial Day 1 (Hope Yeager) (Appellant)
8. 17-Nov-2023 FILED: Reporter's Transcript - 10/31/2022 - Jury Trial (Scott Coniam) (Appellant)

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9.	17-Nov-2023	FILED: Reporter's Transcript - 11/01/2022 - Jury Trial (Scott Coniam) (Appellant)
10.	17-Nov-2023	FILED: Reporter's Transcript - 11/03/2022 - Jury Trial (Scott Coniam) (Appellant)
11.	17-Nov-2023	FILED: Reporter's Transcript - 11/07/2022 - Jury Trial (Scott Coniam) (Appellant)
12.	17-Nov-2023	FILED: Appellant's ARCAP Rule 11.1(D)(1) Notice Of Filing And Delivery Of Transcripts; Certificate Of Service Of Appellant's ARCAP Rule 11.1(D)(1) Notice Of Filing And Delivery Of Transcripts (Appellant)
13.	17-Nov-2023	FILED: Reporter's Transcript - 10/25/2022 - Jury Trial (Scott Coniam) (Appellant)
14.	17-Nov-2023	FILED: Reporter's Transcript - 11/09/2022 - Jury Trial Day 11 (Katherine Schlappi) (Appellant)
15.	17-Nov-2023	FILED: Reporter's Transcript - 11/10/2022 - Jury Trial Day 12 (Gabrielle Eason) (Appellant)
16.	17-Nov-2023	FILED: Reporter's Transcript - 11/14/2022 - Jury Trial Day 13 (Katherine Schlappi) (Appellant)
17.	17-Nov-2023	FILED: Reporter's Transcript - 10/26/2022 - Jury Trial (Scott Coniam) (Appellant)
18.	17-Nov-2023	FILED: Reporter's Transcript - 10/27/2022 - Jury Trial (Scott Coniam) (Appellant)
19.	17-Nov-2023	FILED: Reporter's Transcript - 11/02/2022 - Jury Trial (Scott Coniam) (Appellant)
20.	17-Nov-2023	FILED: Reporter's Transcript - 11/08/2022 - Jury Trial (Scott Coniam) (Appellant)
21.	20-Nov-2023	FILED: Appellate Clerk Notice re: Appellee's Fees; Appellant's Brief/Case Management Statement Due
22.	21-Nov-2023	FILED: Notice of Incorrect Email Address; Certificate of Service of Notice of Incorrect Email Address (Appellee Brooks)
23.	22-Nov-2023	ORDERED: (per Sorensen v. Farmers) staying appeal until 12/22/2023. Signed order with certification of finality pursuant to Rule 54(c) due within 10 days after its entry. If appeal reinstated by filing of signed order, opening brief due 01/22/2024 and case management statement due 01/04/2024. Hon David B Gass - Author
24.	22-Nov-2023	FILED: Appellant's Case Management Statement (Appellant)
25.	27-Nov-2023	RECEIPT No.: 2023-01104 ; \$140.00, Authorization: # 31014632914, Applied to: MARK BROOKS, et al. - Class B Filing Fee (\$140.00) Paid for: Simbro & Stanley PLC - By nCourt LLC
26.	27-Nov-2023	FILED: Notice of Appearance; Certificate of Service (Appellee Pate)
27.	1-Dec-2023	RECEIPT No.: 2023-01125 ; \$140.00, Authorization: #35013113977, Applied to: MACKENZIE PATE - Class B Filing Fee (\$140.00) Paid for: William M Fischbach III - By nCourt LLC
28.	11-Dec-2023	FILED: Notice of Payment of Appellee Mark Brooks' Filing Fee; Certificate of Service of Notice of Payment of Appellee Mark Brooks' Filing Fee (Appellee Brooks)
29.	18-Dec-2023	FILED: Notice of Payment of Appellee Robert K. Johnson's Filing Fee; Certificate of Service (Appellee Johnson)
30.	18-Dec-2023	FILED: Supplemented Superior Court e-Record with Revised Index of Record (includes ME: Ruling 12/14/2023)
31.	22-Dec-2023	RECEIPT No.: 2023-01197 ; \$140.00, Authorization: #56003491912, Applied to: ROBERT K. JOHNSON - Class B Filing Fee (\$140.00) Paid for: Moyes Sellers & Hendricks - By nCourt LLC
32.	22-Dec-2023	FILED: Appellant's Notice Regarding Case Status and Request for Continuation of Stay; Certificate of Service of Appellant's Notice Regarding Case Status and Request for Continuation of Stay (Appellant)
33.	27-Dec-2023	ORDERED: Appellant's Notice Regarding Case Status and Request for Continuation of Stay (Appellant) = GRANTED. Continuing stay of appeal until 01/29/2024 to allow superior court to rule on appellant's motion for reconsideration. FURTHER ORDERED: Stay will be lifted automatically on 01/29/2024 unless before that date appellant files motion to continue stay of appeal that describes status of motion for reconsideration. FURTHER ORDERED: Appellant must file notice of ruling within 10 days after superior court rules on the motion. FURTHER ORDERED: If a party wants this court to review any additional rulings, that party must file a timely notice of appeal or amended notice of appeal. FURTHER ORDERED: Opening brief is due 02/29/2024. Barbara Vidal Vaught ProTem Judge - Author
34.	27-Dec-2023	ORDERED: Amending the second-to-last paragraph on page two of the 12/27/2023 order by deleting "the case management statement is due on 02/09/2024 and". Barbara Vidal Vaught ProTem Judge - Author
35.	23-Jan-2024	FILED: Copy of Maricopa County Superior Court Order dated 01/17/2024 re: Under Advisement Ruling on Motion for Reconsideration

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36. 23-Jan-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record (includes amended notice of appeal and copy of Maricopa County Superior Court ME re: 54(c) language)
37. 25-Jan-2024 FILED: Appellant's Notice Regarding Case Status; Certificate of Service (Appellant)
38. 9-Feb-2024 ORDERED: Affirming the briefing schedule; the opening brief remains due on 02/29/2024. FURTHER ORDERED: The parties are to address in their briefs whether this court has jurisdiction over this appeal in light of A.R.S. § 12-2101 (A) (5) (a) and the foregoing authorities, and what procedural steps they may wish to suggest in light of their answers to that question. Hon Andrew M Jacobs - Author
39. 12-Feb-2024 FILED: Appellant's Motion for Extension of Time to File Opening Brief; Certificate of Service (Appellant)
40. 13-Feb-2024 ORDERED: Appellant's Motion for Extension of Time to File Opening Brief (Appellant) = GRANTED. Due date EXTENDED from Thursday, 02-29-2024 to Friday, 03-29-2024. If the brief is not timely filed, the court will dismiss this appeal. Melina Brill ProTem Judge - Author
41. 29-Mar-2024 FILED: Appellant's Opening Brief; Certificate of Compliance; Certificate of Service of Plaintiff/Appellant's Opening Brief (Appellant)
42. 29-Mar-2024 FILED: (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix (Appellant)
43. 29-Mar-2024 FILED: (Untitled) Appendix (Appellant)
44. 29-Mar-2024 FILED: (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix (Appellant)
45. 29-Mar-2024 FILED: (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix (Appellant)
46. 29-Mar-2024 FILED: (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix (Appellant)
47. 29-Mar-2024 FILED: (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix; (Untitled) Appendix (Appellant)
48. 29-Mar-2024 FILED: Notice of Settlement Re: Counterclaims (Motion to Dismiss); Notice of Settlement Re: Counterclaims (Duplicate) (Certificate of Service) (Appellant)
49. 3-Apr-2024 ORDERED: Notice of Settlement Re: Counterclaims (Motion to Dismiss) (Appellant) = TAKING NO ACTION. Melina Brill ProTem Judge - Author
50. 8-Apr-2024 FILED: Supplemental Notice of Settlement Regarding Counterclaims; Certificate of Service (Appellant)
51. 9-Apr-2024 ORDERED: Directing the clerk of this court to reference this order in the case management system in connection with the opening brief filed on 03/29/2024. Melina Brill ProTem Judge - Author
52. 10-Apr-2024 FILED: Motion for Procedural Order (Extension of Time to File Answering Brief); Certificate of Service (Appellee Pate)
53. 11-Apr-2024 ORDERED: Motion for Procedural Order (Extension of Time to File Answering Brief) (Appellee Pate) = GRANTED. Due date EXTENDED for all answering briefs from Wednesday, 05-08-2024 to Friday, 06-07-2024. If briefs not timely filed, the court will submit this appeal for decision on the record and the filed briefs. Melina Brill ProTem Judge - Author
54. 6-Jun-2024 FILED: Appellee Mark Brooks' Response Brief; Certificate of Compliance; Appellee Mark Brooks' Certificate of Service (Appellee Brooks)
55. 6-Jun-2024 FILED: Appellee Mark Brooks' Amended Certificate of Service (Appellee)
56. 7-Jun-2024 FILED: Answering Brief of Appellee Mackenzie Pate; Certificate of Compliance; Certificate of Service (Appellee Pate)
57. 7-Jun-2024 FILED: Answering Brief; Certificate of Compliance; Certificate of Service (Appellee Johnson)
58. 21-Jun-2024 FILED: Motion for Procedural Order for Extension of Time to File Reply Brief; Certificate of Service (Appellant)
59. 24-Jun-2024 ORDERED: Motion for Procedural Order for Extension of Time to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Wednesday, 06-26-2024 to Friday, 07-26-2024. If brief not timely filed, court will submit this appeal for decision on record and filed briefs. Melina Brill ProTem Judge - Author
60. 26-Jul-2024 FILED: Appellant's Reply Brief; Certificate of Compliance; Certificate of Service of Plaintiff/Appellant's Reply Brief (Appellant)
61. 29-Jul-2024 FILED: Appellant's Request For Oral Argument; Certificate of Service (Appellant)
62. 13-Aug-2024 ORDERED: Appellant's Request For Oral Argument (Appellant) = GRANTED. Hon David B Gass - Author
63. 14-Aug-2024 FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days

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64. 23-Aug-2024 FILED: Supplemented Superior Court e-Record with Revised Index of Record